

JASON M. FRIERSON  
 United States Attorney  
 District of Nevada  
 Nevada Bar No. 7709  
 LINDSAY AGER  
 Assistant United States Attorney  
 Nevada Bar No. 11985  
 501 Las Vegas Blvd. So., Suite 1100  
 Las Vegas, Nevada 89101  
 702-388-6336  
[Lindsay.Ager@usdoj.gov](mailto:Lindsay.Ager@usdoj.gov)

*Attorneys for the United States of America*

**UNITED STATES DISTRICT COURT**

**DISTRICT OF NEVADA**

United States of America,  
  
 Plaintiff,  
  
 v.  
  
 Richard Washinsky, M.D.,  
  
 Defendant.

Case No. 2:22-cv-01803-APG-VCF

**United States' Motion to Extend Time Limit  
 for Service**

Under Federal Rule of Civil Procedure 4(m), the United States respectfully requests a 90-day extension of time to serve process on defendant Richard Washinsky, M.D. The United States' current service deadline is January 25, 2023, and it is seeking an extension until April 25, 2023. The United States has attempted 11 times, across five addresses, to serve Dr. Washinsky. The United States' multiple attempts to locate and serve Dr. Washinsky equate to good cause for granting an extension. Accordingly, the Court should grant the United States' motion.

**I. Background**

On October 27, 2022, the United States filed a complaint against Dr. Washinsky alleging violations of the Controlled Substances Act, 21 U.S.C. § 801 et seq., and its implementing regulations, 21 C.F.R. § 1301 et seq. (Compl. (ECF No. 1).) Within a week of filing the complaint, on November 4, 2022, the United States attempted to serve Dr. Washinsky. (*See* Affidavit of Due

Diligence, attached as Exhibit 1.) After attempting service at five locations within ten weeks, the United States' process server failed to locate and serve Dr. Washinsky. (*Id.* at 2.) In addition to the numerous attempts described above, the United States' process server searched the county assessor, DMV, voter registration, and telephone directory for information relating to Dr. Washinsky. (*Id.*) Despite these efforts, the United States has been unable to locate and serve Dr. Washinsky in Nevada. (*Id.*)

## II. Analysis

Under Federal Rule of Civil Procedure 4(m), a defendant must be served within 90 days after the complaint is filed. Fed. R. Civ. P. 4(m). If the defendant is not served within the 90-day period, the plaintiff can ask the court to extend the time for service. *Id.* The court must extend the time for service if the plaintiff shows good cause for the failure to serve the defendant within 90 days. *Lemoge v. United States*, 587 F.3d 1188, 1198 (9th Cir. 2009) (citing prior version of Rule 4(m) with a 120-day deadline); Fed. R. Civ. P. 4(m). Courts determine on a case-by-case basis whether the party attempting service has shown good cause. *In re Sheehan*, 253 F.3d 507, 512 (9th Cir. 2001). Generally, good cause is demonstrated "where a plaintiff has shown diligent efforts to effect service." *Signature Surgery Ctr. LLC v. Cel Servs. Grp., Inc.*, No. 2:21-CV-00215-JCM-EJY, 2022 WL 1432444, at \*1 (D. Nev. Apr. 5, 2022). It is within the court's discretion whether to extend the time for service. *Lemoge*, 587 F.3d at 1198.

Here, the United States has been diligent in its attempts to serve Dr. Washinsky. Since filing the complaint, the United States has tried 11 times, across five different addresses, to locate and serve Dr. Washinsky in Nevada. (*See* Ex. 1 at 2.) The United States' multiple attempts over 10 weeks to locate and serve Dr. Washinsky demonstrate good cause for an extension of the service deadline. The United States is aware of an additional address in Fort Meyers, Florida, where it may be possible to serve Dr. Washinsky. Given that the United States has exhausted its attempts to serve Dr. Washinsky in Nevada, the United States now intends to retain a process server in

/ / /

/ / /

/ / /

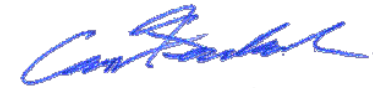
1 Florida and attempt service there, necessitating this extension. Accordingly, the United States  
2 respectfully requests that the Court grant its motion to extend the time limit for service until April  
3 25, 2023.

4 Dated: January 25, 2023

JASON M. FRIERSON  
United States Attorney

6 /s/ Lindsay Ager  
7 LINDSAY AGER  
8 Assistant United States Attorney

10 IT IS SO ORDERED.

11 

12  
13 Cam Ferenbach  
14 United States Magistrate Judge

15 DATED 1-25-2023

# **EXHIBIT 1**

**Affidavit of Due Diligence**

UNITED STATES DISTRICT COURT  
For the  
DISTRICT OF NEVADA

UNITED STATES OF AMERICA,

Plaintiff(s),

vs.

RICHARD WASHINSKY, M.D.,

Defendant(s).

Case No.: 2:22-cv-01803-APG-VCF  
Dept No.:  
Docket No.:

**AFFIDAVIT OF DUE DILIGENCE**

STATE OF NEVADA            )  
  ) ss.  
COUNTY OF CLARK        )

Karie Castle, being first duly sworn, deposes and says; that affiant is and was on the dates when service was attempted of the within: **SUMMONS AND COMPLAINT**, a citizen of the United States, over 18 years of age, and not a party to, nor interested in the within action; that affiant received the above named document(s) and attempted to personally serve/have them served upon: **RICHARD WASHINSKY, M.D.** subject(s), during the period of November 2, 2022 through January 15, 2023 at his/her last known address(es) of: 9010 W. Cheyenne Avenue, 3017 Waterside Circle, 8780 Carlitas Joy Court, 7530 W. Sahara Avenue #107, 9513 Quail Ridge Drive, in the City of Las Vegas, County of Clark, State of Nevada, without success in locating said subject(s).  
Affiant was not able to serve/have subject(s) served for the following reasons:

1 11-4-22 and 11:25 a.m. – Forte Family Practice located at 9010 W. Cheyenne, subject is  
2 unknown.

3 The following attempts were made to the home at 3017 Waterside Circle:

4 11-8-22 at 7:30 a.m. – No entry.

5 11-11-22 at 1:30 p.m. – No entry.

6 11-15-22 at 11:33 a.m. – No entry.

7 11-23-22 at 8:11 p.m. – No entry.

8 Small gated community. Subject's name is not on the community directory.

9 The following attempts were made to the home at 8780 Carlitas Joy Court:

10 12-3-22 at 8:46 a.m. – No entry.

11 12-14-22 at 5:10 p.m. – No entry.

12 12-19-22 at 7:30 a.m. – No entry.

13 12-28-22 at 9:00 p.m. – No entry.

14 Small gated community. Subject's name is not on the community directory.

15 1-3-23 at 9:30 a.m. – The look Med Spa is located at 7530 W. Sahara Avenue #107, subject no  
16 longer works as the director for this company.

17 1-15-23 at 8:50 p.m. – Per Adult Male Occupant at 9513 Quail Ridge Drive, subject is  
18 unknown.

19 Affiant performed Social / Name Trace and searched County Assessor, DMV, Voter  
20 Registration, and Telephone Directory. The within stated address is the last known and / or  
21 most current for subject. Additionally, Affiant was unable to locate a place of employment  
22 for subject.

23 Affiant, on the basis of the previous information, was unable to locate / serve subject(s).

24

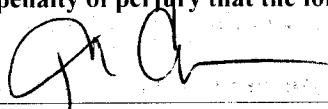
25 Per NRS 53.045

26 If executed in this state (Nevada): "I declare under penalty of perjury that the foregoing is true and correct."

27 Executed on: 1-19-2023

28

**Karie Castle R2021-00118**  
Attorney's Process  
Nevada License # 429  
3037 E. Warm Springs Rd. #200  
Las Vegas, NV 89120  
(702-763-8441)

  
(Signature)